

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KYNTREL TREVYONE JACKSON,

Plaintiff,

v.

TIMOTHY M. THRASHER, et al.,

Defendant.

CASE NO. C20-5016 BHS-DWC

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 35, and Plaintiff Kyntrel Trevyone Jackson’s (“Jackson”) objections to the R&R, Dkt. 37.

On July 23, 2020, Judge Christel issued the R&R recommending that the Court grant Defendants’ motion to dismiss, dismiss Jackson’s First Amendment claim, and grant Jackson leave to amend his Eight Amendment claims. Dkt. 35. On August 17, 2020, Jackson filed objections. Dkt. 37.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Jackson objects to dismissal of his First Amendment claim. Dkt. 37.
4 Jackson argues that an officer's knowledge of a medical issue stated in a grievance
5 supports a claim for failure to prevent further harm. *Id.* (citing *Snow v. McDaniel*, 681
6 F.3d 978, 983 (9th Cir. 2012), *overruled by Peralta v. Dillard*, 744 F.3d 1076 (9th Cir.
7 2014)). While Jackson is correct, *Snow* addressed the element of knowledge related to an
8 Eight Amendment claim and does not support Jackson's First Amendment claim that
9 Defendants failed to properly process his grievances. Therefore, the Court having
10 considered the R&R, Jackson's objections, and the remaining record, does hereby find
11 and order as follows:

- 12 (1) The R&R is **ADOPTED**;
- 13 (2) Defendants' motion is **GRANTED**;
- 14 (3) Jackson is **GRANTED** leave to file an amended complaint; and
- 15 (4) The Court defers to Judge Christel as to a deadline to file that amended
16 complaint.

17 Dated this 2nd day of October, 2020.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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